

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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ROBERT T. PEMBERTON, #212517,

Plaintiff,

-against-

FRANCO FRANTELLIZZI, MARIO CASTANO,
WILLIAM P. VASQUEZ, MATTHEW DINIZIO,
WARDEN CHARLES EWALD,

Defendants.

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FEUERSTEIN, District Judge:

I. Introduction

On November 15, 2012, incarcerated *pro se* plaintiff Robert T. Pemberton (“plaintiff”) filed a civil rights complaint in this Court pursuant to 42 U.S.C. § 1983 (“Section 1983”) against defendants Franco Frantellizzi, Mario Castano, William P. Vasquez, Matthew Dinizio and Charles Ewald (“Ewald”), as warden of the Suffolk County Correctional Facility, (collectively “defendants”), accompanied by an application to proceed *in forma pauperis*. By order dated January 22, 2013, plaintiff’s application to proceed *in forma pauperis* was granted; the complaint was *sua sponte* dismissed pursuant to 28 U.S.C. §§ 1915(e)(2)(B)(ii) and 1915A(b)(1) for failure to state a claim for relief; plaintiff was granted leave to file an amended complaint on or before February 25, 2013; and plaintiff was advised that his failure to file an amended complaint in accordance with that order would result in the complaint being deemed dismissed in its entirety with prejudice. Plaintiff has not filed an amended complaint in accordance with the January 22, 2013 order, sought an extension of time to do so or taken any other steps to prosecute this action since the filing of the complaint. Accordingly, the complaint is *sua sponte* dismissed with

ORDER
12-CV-5697 (SJF)(WDW)

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prejudice. The Clerk of the Court shall enter judgment in favor of defendants and close this case.

The Court certifies pursuant to 28 U.S.C. § 1915 (a)(3) that any appeal from this order would not be taken in good faith and therefore *in forma pauperis* status is denied for purpose of an appeal. See Coppedge v. United States, 369 U.S. 438, 444-45 (1962).

SO ORDERED.

s/ Sandra J. Feuerstein

Sandra J. Feuerstein
United States District Judge

Dated: July 29, 2013
Central Islip, New York